

Zoning Case No. C14-05-0176

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RESTRICTIVE COVENANT

OWNER: Retail Group, Inc., a Texas corporation

ADDRESS: P.O. Box 91176, Austin, Texas 78709-1176

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: Tract One: A 6.29 acre tract of land, more or less, out of Lot 1, Block A, Copperfield Section 1, Phase G Subdivision, the tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant.

Tract Two: A 2.92 acre tract of land, more or less, out of the Thomas H. Mays Survey No. 89, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "B" attached and incorporated into this covenant.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by Alliance Transportation Group, Inc., dated September 2005, or as amended and approved by the Director of the Watershed Protection and Development Review Department. All development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department, dated June 15, 2006. The TIA shall be kept on file at the Watershed Protection and Development Review Department.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions; and to collect damages for such actions.
3. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.

4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the _____ day of _____, 2006.

OWNER:

**Retail Group, Inc.,
a Texas corporation**

By: _____
H. Michael Giles,
President

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2006, by H. Michael Giles, President of Retail Group, Inc., a Texas corporation, on behalf of the corporation.

Notary Public, State of Texas

EXHIBIT "A"
LEGAL DESCRIPTION

FIELD NOTES DESCRIBING 6.49 ACRES OF LAND, BEING ALL OF LOT ONE (1), BLOCK A, COPPERFIELD SECTION ONE, PHASE G, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, RECORDED IN VOLUME 85, PAGE 197D OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, SAID 6.49 ACRES OF LAND TO BE MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at an iron rod found at a point in a curve of the northeast right-of-way line of Shropshire Boulevard at a corner point of that certain N. P. C. Tract recorded in Volume 6859, Page 106 of the Deed Records of said county, for the northwest corner of said 6.49 acres and for the POINT OF BEGINNING hereof;

THENCE with the south line of said N. P. C. Tract and the north line of said Lot 1, the following eight (8) courses;

- 1) North 79 degrees 20 minutes 00 seconds East a distance of 36.95 feet to a point;
- 2) North 66 degrees 10 minutes 00 seconds East a distance of 140.00 feet to a point;
- 3) South 45 degrees 10 minutes 00 seconds East a distance of 113.00 feet to a point;
- 4) North 55 degrees 50 minutes 00 seconds East a distance of 120.00 feet to a point;
- 5) North 04 degrees 25 minutes 00 seconds East a distance of 236.00 feet to a point;
- 6) North 52 degrees 44 minutes 43 seconds East a distance of 363.71 feet to a point;
- 7) North 77 degrees 45 minutes 00 seconds East a distance of 170.00 feet to a point;
- 8) North 88 degrees 37 minutes 45 seconds East a distance of 176.18 feet to an iron rod found at a point in the west line of that certain Clinton P. Sayers, Trustee tract recorded in Volume 8561, Page 795 of said records, for the northeast corner of said 6.49 acres and for the northeast corner hereof;

THENCE with the west line of said Sayers tract and the east line of said Lot 1, the following three (3) courses;

- 1) South 17 degrees 30 minutes 16 seconds West a distance of 76.91 feet to an iron rod set;
- 2) South 18 degrees 49 minutes 06 seconds West a distance of 162.98 feet to an iron rod found;
- 3) South 18 degrees 11 minutes 57 seconds West a distance of 186.30 feet to an iron rod set at a point in the north right-of-way line of Dessau Road, for the southeast corner of said 6.49 acres and for the southeast corner hereof;

THENCE with said right-of-way line and the south line of said Lot 1, the following two (2) courses;

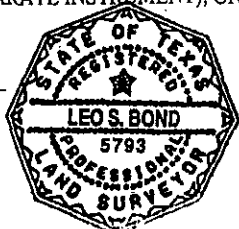
- 1) South 68 degrees 11 minutes 08 seconds West a distance of 421.67 feet to an iron rod set at a point of curvature of a curve to the left;
- 2) with said curve, whose radius is 556.31 feet, an arc distance of 289.54 feet and a chord bearing of South 53 degrees 16 minutes 23 seconds West a distance of 286.28 feet to an iron rod set at a point of reverse curve at the intersection of said Dessau Road and said Shropshire Boulevard, for the southwest corner of said 6.49 acres and for the southwest corner hereof;

THENCE with said Boulevard the following three (3) courses;

- 1) with said curve, to the right whose radius is 15.00 feet an arc distance of 23.76 feet and a chord bearing of South 83 degrees 45 minutes 08 seconds West a distance of 21.35 feet to an iron rod found at a point of tangent;
- 2) North 50 degrees 50 minutes 00 seconds West a distance of 156.65 feet to an iron rod found at a point of curvature of a curve to the right;
- 3) with said curve, whose radius is 525.65 feet, an arc distance of 141.14 feet and a chord bearing of North 43 degrees 09 minutes 07 seconds West a distance of 140.71 feet to the POINT OF BEGINNING and containing 6.49 acres of land, more or less.

THIS LEGAL DESCRIPTION IS TO BE USED IN CONJUNCTION WITH THE ATTACHED SURVEY PLAT (BY SEPARATE INSTRUMENT), ONLY.

Leo S. Bond
Leo S. Bond
TX R.P.L.S. No. 5793
Job No. A0923105



September 29, 2005
Date

EXHIBIT B
CARSON AND BUSH
PROFESSIONAL SURVEYORS, INC.
1904 FORTVIEW ROAD
AUSTIN, TX 78704
TELEPHONE: (512) 442-0990
FACSIMILE: (512) 442-1084

May 16, 2005

FIELD NOTE DESCRIPTION OF 2.92 ACRES OF LAND OUT OF THE THOMAS H. MAYS SURVEY NO. 89, ABSTRACT NO. 562, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN (181.94 ACRE) TRACT OF LAND AS CONVEYED TO B.R. PAYTON BY DEED RECORDED IN VOLUME 419, PAGE 230 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a square head bolt found in the Southwest right-of-way line of Shropshire Boulevard, recorded as Copperfield, Section One, Phase F, according to the map or plat thereof recorded in Volume 85, Page 97D of the Plat Records of Travis County, Texas, same being a point in the Southeasterly line of that certain (178.12 acre) tract of land as conveyed to Davidson & Associates VII, by deed recorded in Volume 3638, Page 275 of the Deed Records of Travis County, Texas and the most Northerly corner and **PLACE OF BEGINNING** of the herein described tract, from which a square head bolt found in the Southwest right-of-way line of said Shropshire Boulevard bears, N50 deg. 50'00"W 79.82 feet;

THENCE with the Southwest right-of-way line of Shropshire Boulevard, same being the Southeast line of said Davidson & Associates VII (178.12 acre) tract, **S36 deg 56'30"E 138.09 feet** to a 1/2" iron rod set with a plastic cap imprinted "Carson and Bush Professional Surveyors, Inc.", for the Southeast corner of Shropshire Boulevard, same being a point in the West right-of-way line of Dessau Road and the Northeast corner of the herein described tract, from which a PK nail found for the most Westerly corner of Lot 25, Block A, Pioneer Crossing, Section 2, according to the map or plat thereof recorded in Document No. 200200323 of the Official Public Records of Travis County, Texas, bears, N80 deg. 30'48"E 226.10 feet (direct tie);

THENCE leaving the Southeast line of said Davidson & Associates VII (178.12 acre) tract and crossing the interior of said Payton (181.94 acre) tract with the West right-of-way line of Dessau Road, **S27 deg. 17'51"W 233.09 feet**, to a 1/2" iron rod set with a plastic cap imprinted "Carson and Bush Professional Surveyors, Inc.", for the most northerly corner of that certain (5445 square feet) tract of land as conveyed to Travis County, Texas, by deed recorded in Volume 10807, Page 1659 of the Real Property Records of Travis County, Texas;

THENCE continuing across the interior of said Payton (181.94 acre) tract with the West right-of-way line of Dessau Road and the East line of said Travis County (5445 square feet) tract, the following two courses:

1.) **S33 deg. 47'05"W 258.98 feet**, to a ½" iron rod set with a plastic cap imprinted "Carson and Bush Professional Surveyors, Inc." for a point of curvature;

2.) following along a curve to the right whose radius is 1577.02 feet, for an arc length of 370.30 feet, and which chord bears, **S40 deg. 30'42" W 369.45 feet** to a point in the approximate centerline of Walnut Creek, from which a ½" iron rod found for the most Northerly corner of Lot 1, Block A, Pioneer Crossing, Phase A, Section 2, according to the map or plat thereof recorded in Document No: 1999000176 of the Official Public Records of Travis County, Texas., bears, **S07 deg. 42'12"W 179.62 feet** (direct tie);

THENCE leaving the West right-of-way line of Dessau Road with the approximate centerline of Walnut Creek, **N38 deg. 26'01"W 44.66 feet** to a point for the most Southerly Southeast corner of said Davidson & Associates VII (178.12 acre) tract, same being the most Southwesterly corner of the herein described tract;

THENCE leaving the approximate centerline of Walnut Creek, with the Southeasterly line of said Davidson & Associates VII (178.12 acre) tract, the following three courses:

1.) following along a branch of Walnut Creek, **N25 deg. 32'30"E 323.00 feet** to a 60D nail found at the top of a bluff;

2.) **N21 deg. 30'41"E** passing a square head bolt at a distance of 38.91 feet, from which a square head bolt found bears, **N16 deg. 50'27"W 27.51 feet**, continuing along said bearing for a total distance of **446.72 feet** to a 60D nail found in the Northwest face of a 36" Live Oak tree;

3.) **N61 deg. 37'44"E 150.71 feet**, to the **PLACE OF BEGINNING** and containing 2.92 acres of land.

SURVEYED: May 19, 2005
BY:

Holt Carson

Holt Carson
Registered Professional Land Surveyor No. 5166



see accompanying map: B 748002

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767
Attention: Diana Minter, Legal Assistant